IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.653 Of 1997

B. Moosa Hussain Haji .. Appellant.

V/s.

C. Mohd.Mohiddin Kutty
(since deceased) through
LR s Smt. A.M.Kutty &
Others .. Respondents.

Ms. Nisha Valani, for Appellant.
Shri Suresh Gole, for Respondent No.10.

CORAM : R.G.KETKAR, J.

DATE : JULY 22,2010.

P.C.:-

Not on board. Mentioned due to urgency.

1. Heard Ms. Nisha Valani, learned counsel for the Appellant and Shri Gole, learned counsel for the Respondent No.10. Ms. Nisha Valani, learned counsel for the Appellant states that the First Appeal is settled between the parties out of Court and she has instructions from Appellant Mr.B.Moosa Hussain Haji, who is present in the Court, to withdraw the First Appeal. She further states that the Appellant had given undertaking to this Court in C.A.No.4174 of 1997 on 22nd July, 1997 to the

effect that in case he fails in the above First Appeal, he will re-deposit the amount with interest as may be fixed by the Court. He undertakes to deposit and/or re-paid the amount of Rs.50,000/- with interest as per the order passed by City Civil court, Bombay. The said undertaking was given as per the directions given by this Court in said Civil Application. She further states that since the First Appeal is settled between the parties out of Court, the Appellant may be relieved of the undertaking given on 22.02.1997. She further prays that she may be permitted to withdraw the amount of Rs.20,000/- already deposited in this Court, pursuant to the order.

2. Shri Gole, learned Counsel for the Respondent No.10 has no objection for relieving the Appellant from said undertaking as matter is settled amicably. He also has no objection for permitting the Appellant to withdraw the amount of Rs.20,000/-. He also states that Respondent No.10 is present in Court and he also has no objection to the said withdrawal of the amount.

3. In view of this, Appellant B. Moosa Hussain Haji is relieved of undertaking given on 22nd July, 1997 in C.A.No.4175 of 1997. Appellant is also permitted to withdraw amount of Rs.20,000/- together with accrued interest, if any.

4. In the circumstances, Appellant is permitted to withdraw the First Appeal No.653 of 1997. Appeal Stands dismissed as withdrawn with no order as to costs.

(R.G.KETKAR,J.)